

CCRB INVESTIGATIVE RECOMMENDATION

| | | | | | |
|---|---|---------------------------|--|------------------------------------|---------------------------------|
| Investigator: Harry Feigen | Team: APU | CCRB Case #: 201700199 | <input type="checkbox"/> Force | <input type="checkbox"/> Discourt. | <input type="checkbox"/> U.S. |
| | | | <input checked="" type="checkbox"/> Abuse | <input type="checkbox"/> O.L. | <input type="checkbox"/> Injury |
| Incident Date(s) Tuesday, 12/27/2016 3:30 PM | Location of Incident: Across from § 87(2)(b) | Precinct: 25 | 18 Mo. SOL 6/27/2018 | EO SOL 6/27/2018 | |
| Date/Time CV Reported Thu, 12/29/2016 10:15 AM | CV Reported At: IAB | How CV Reported: Phone | Date/Time Received at CCRB Mon, 01/09/2017 10:58 AM | | |

| Complainant/Victim | Type | Home Address |
|--------------------|------------|--------------|
| § 87(2)(b) | § 87(2)(b) | § 87(2)(b) |
| § 87(2)(b) | § 87(2)(b) | § 87(2)(b) |

| Subject Officer(s) | Shield | TaxID | Command |
|-------------------------|--------|--------|---------|
| 1. DT3 Jeannette Rivera | 5615 | 933259 | NARCBMN |
| 2. DT3 Taiwo Adeleke | 3761 | 946662 | 032 DET |
| 3. SGT Darrien King | 02617 | 936870 | NARCBMN |
| 4. POM Rashied McIntyre | 03405 | 947807 | NARCBMN |
| 5. POM Lawrence Thomas | 23859 | 947541 | 033 DET |
| 6. DT3 Raymond Abreu | 06060 | 927825 | NARCBMN |

| Officer(s) | Allegation | Investigator Recommendation |
|------------------------|--|-----------------------------|
| A.POM Lawrence Thomas | Abuse: PO Lawrence Thomas stopped § 87(2)(b) and § 87(2)(b) | § 87(2)(b) |
| B.POM Rashied McIntyre | Abuse: PO Rashied McIntyre stopped § 87(2)(b) and § 87(2)(b) | § 87(2)(b) |
| C.SGT Darrien King | Abuse: Sgt. Darrien King supervised the search of § 87(2)(b) | § 87(2)(b) |
| D.SGT Darrien King | Abuse: Sgt. Darrien King supervised the strip-search of § 87(2)(b) | § 87(2)(b) |
| E.SGT Darrien King | Abuse: Sgt. Darrien King supervised the frisk of § 87(2)(b) | § 87(2)(b) |
| F.SGT Darrien King | Abuse: Sgt. Darrien King supervised the search of § 87(2)(b) | § 87(2)(b) |
| G.DT3 Jeannette Rivera | Abuse: Det. Jeannette Rivera refused to provide her name and shield number to § 87(2)(b) | § 87(2)(b) |
| § 87(2)(b) | § 87(2)(b) | § 87(2)(b) |
| § 87(2)(b) | § 87(2)(b) | § 87(2)(b) |
| § 87(2)(b) | § 87(2)(b) | § 87(2)(b) |
| § 87(2)(b) | § 87(2)(b) | § 87(2)(b) |
| § 87(2)(b) | § 87(2)(b) | § 87(2)(b) |
| § 87(2)(b) | § 87(2)(b) | § 87(2)(b) |
| § 87(2)(b) | § 87(2)(b) | § 87(2)(b) |

| Officer(s) | Allegation | Investigator Recommendation |
|-----------------------|------------|-----------------------------|
| § 87(4-b), § 87(2)(g) | | |
| | | |

Case Summary

On December 29, 2017, § 87(2)(b) filed this complaint with IAB by phone, generating IAB log number 2016-45517. The case was received at the CCRB on January 9, 2017.

On December 27, 2016, at approximately 3:30 p.m., § 87(2)(b) left the § 87(2)(b), with his friend, § 87(2)(b). The two men walked to a bus stop located across from the shelter, and stood waiting for the bus. A black, unmarked vehicle pulled up next to the two men, and PO Lawrence Thomas, PO Rashied McIntyre, and Det. Taiwo Adeleke, all of Narcotics Borough Manhattan North, exited the vehicle and approached § 87(2)(b) and § 87(2)(b) (**Allegations A and B**). The officers questioned § 87(2)(b) about whether he had just thrown something, and then began looking around the area near the bus stop. A second unmarked vehicle arrived, and Sgt. Darrien King, Det. Jeannette Rivera, and Det. Raymond Abreu exited this vehicle and also approached § 87(2)(b) and § 87(2)(b). Sgt. King supervised the stop from thereon. One of the officers searched inside of § 87(2)(b)'s pockets, and removed his ID (**Allegation C**). This officer then reached inside of § 87(2)(b)'s underwear waistband and searched near his genitals (**Allegation D**). Officers frisked § 87(2)(b) and searched inside of his pockets as well (**Allegations E and F**). After Det. Rivera removed § 87(2)(b)'s ID from his pocket, § 87(2)(b) asked Det. Rivera for her name and shield number, and she did not say anything in response (**Allegation G**). The officers all returned to their vehicles and left without issuing any summonses to § 87(2)(b) or § 87(2)(b). § 87(4-b), § 87(2)(g)

Mediation, Civil, and Criminal Histories

- § 87(2)(b) rejected mediation.
- A notice of claim was returned by the NYC Comptroller's office on April 26, 2017 with negative results (01 Board Review).
- § 87(2)(b) § 87(2)(c)
§ 87(2)(b) § 87(2)(c)
§ 87(2)(b) § 87(2)(c)
§ 87(2)(b) § 87(2)(c)
- § 87(2)(b) § 87(2)(c)
§ 87(2)(b) § 87(2)(c)
§ 87(2)(b) § 87(2)(c)

Civilian and Officer CCRB Histories

- § 87(2)(b)
- § 87(2)(b)
- Sgt. King has been a member of service for twelve years. He has one prior substantiated frisk allegation on his record.
- PO Thomas has been a member of service for eight years. He has five prior physical force allegations across three cases on his record. Three of these allegations have been closed as “complainant uncooperative,” one as “complainant unavailable,” and one as “complaint withdrawn.”
- PO McIntyre has been a member of service for eight years. He has one prior substantiated stop allegation on his record.
- Det. Rivera has been a member of service for thirteen years. She has two prior substantiated strip-search allegations on her record, across two cases. She has three prior stop allegations and three prior search of person allegations on her record across four cases. Two of the stop allegations have been closed as “unsubstantiated,” and one as “complainant uncooperative.” Two of the search of person allegations have been closed as “unsubstantiated,” and one as “exonerated.”
- Det. Adeleke has been a member of service for eight years. She has one prior substantiated threat of force and verbal discourtesy allegation each.
- Det. Raymond Abreu has been a member of service for fifteen years. He has one prior substantiated strip-search allegation on his record.

Explanation For Investigation Exceeding 90 Days

Neither § 87(2)(b) nor § 87(2)(b) could identify any of the officers in this case by name or shield number, and none of the officers prepared stop and frisk reports in regards to the incident. No officers conducted any warrant checks on § 87(2)(b) or § 87(2)(b) nor were there any event reports generated relating to this incident. Thus, the investigation could not identify any potential subject officers at the outset of the investigation. Documents were requested from Narcotics Borough Manhattan North on January 23, 2017. These documents were delayed, and did not arrive at the CCRB until March 27, 2017. These documents indicated that a team of officers from that command was in fact working on Wards Island at the time of this incident, but still did not document any stop of § 87(2)(b) and § 87(2)(b). It was not until Sgt. King and PO McIntyre were interviewed on April 7, 2017, that the investigation determined that these six officers were those who conducted the stop of § 87(2)(b) and § 87(2)(b). The case

was delayed an additional two weeks approximately, as Det. Adeleke missed four interviews at the CCRB before providing a statement on April 25, 2017.

Findings and Recommendations

Explanation of Subject Officer Identification

PO Thomas and PO McIntyre were the only officers who made observations about § 87(2)(b) and § 87(2)(b) that led the officers to stop these two men. Both officers were in a vehicle with Det. Adeleke at that time, but Det. Adeleke was driving the officers' vehicle at that time, and she stated that the stop in this incident was entirely based upon the observations of PO Thomas and PO McIntyre. Sgt. King, Det. Abreu, and Det. Rivera all arrived at the scene after the first group of officers had already initiated the stop of § 87(2)(b) and § 87(2)(b). The stop is thus pleaded against PO Thomas and PO McIntyre.

§ 87(2)(g)

§ 87(2)(b) stated that the driver of the first vehicle, a black male officer, was the officer who searched his pockets and inside of his underwear. § 87(2)(b) also stated it was the driver of the first vehicle who searched § 87(2)(b) but he stated it was a black female officer. Det. Adeleke, a black female, was the driver of the first officers' vehicle. § 87(2)(g)

§ 87(2)(b) stated that Det. Adeleke and a black male officer in the first officers' vehicle (PO Thomas and PO McIntyre are both black males and have similar pedigrees) both frisked him, and then the second officers searched inside of his pockets. Later in the incident, Det. Rivera also searched inside of § 87(2)(b) pockets. § 87(2)(b) could not describe any of the officers who frisked or searched § 87(2)(b) due to the large number of officers present for the stop, and none of the officers recalled a frisk or search of the males except for Det. Abreu, who could not say which officer specifically frisked the males.

§ 87(2)(g)

§ 87(2)(b) described the officer whom he asked for the name and shield number of as a Hispanic female who arrived in the second officers' vehicle. Det. Rivera was the only Hispanic female among this group of officers, and she arrived in the second vehicle. § 87(2)(g)

Allegations Not Pleaded

§ 87(2)(b) stated that he and § 87(2)(b) were both patted down at the same time in the same manner. § 87(2)(b) himself denied being frisked, however, and stated he was only searched in his pockets and waistband. § 87(2)(g)

Allegation A: Abuse of Authority – PO Lawrence Thomas stopped § 87(2)(b) and § 87(2)(b)

Allegation B: Abuse of Authority – PO Rashied McIntyre stopped § 87(2)(b) and § 87(2)(b)

It is undisputed that, prior to being approached by the officers in this incident, § 87(2)(b) and § 87(2)(b) walked across a grass field located next to the § 87(2)(b) (b) and stopped and stood at a bus stop located at the edge of the field on § 87(2)(b).

§ 87(2)(b) (04 Board Review) and § 87(2)(b) (05 Board Review) both stated that they were not doing anything except for speaking to each other as they waited at the bus stop. In a phone statement on April 26, 2017, § 87(2)(b) denied that either he or § 87(2)(b) was smoking anything at any time during this incident (06 Board Review). A black unmarked vehicle pulled up at the bus stop, and PO Thomas, PO McIntyre, and Det. Adeleke exited the vehicle, approached § 87(2)(b) and § 87(2)(b) and began asking them both what § 87(2)(b) had thrown. § 87(2)(b) had not thrown anything prior to the officers' arrival. Shortly afterwards, a second unmarked vehicle pulled up, and Sgt. King, Det. Abreu, and Det. Rivera exited this vehicle and also approached the civilians. Officers obtained the IDs of § 87(2)(b) and § 87(2)(b) but did not ever run their information.

PO Thomas stated that as § 87(2)(b) and § 87(2)(b) were walking through the field towards the bus stop, he observed one of the males raise both of his hands towards his mouth, as if lighting something, and then exhale faint smoke shortly afterwards. PO Thomas could not see what the male was holding in his hands when he raised them to his mouth. The officers' vehicle was approximately fifteen feet from § 87(2)(b) and § 87(2)(b) when PO Thomas made these observations, and their vehicle was traveling at a "slow roll." Based upon PO Thomas' observations, he believed that the male might have been smoking narcotics or a lighting a cigarette. When the officers pulled up at the bus stop next to § 87(2)(b) and § 87(2)(b) PO Thomas observed the male who had previously been smoking throw an object onto the ground on his side, but PO Thomas could not say what this object was. The officers then exited their vehicle and looked around on the ground near where the male had thrown the object, and PO Thomas observed a broken glass pipe. PO Thomas also observed a rusty knife on the ground on the other side of § 87(2)(b) and § 87(2)(b) and he smelled a faint odor of narcotics in the area. PO Thomas asked the civilians if they knew anything about narcotics in the area, and they said no. One of the men told PO Thomas that he had been urinating in the field next to the bus stop, but PO

Thomas did not himself observe this. PO Thomas denied that he or any other officers ever asked § 87(2)(b) or § 87(2)(b) any other questions, that they ever obtained their IDs, or that either male was ever “stopped.” PO Thomas denied that he ever observed § 87(2)(b) and § 87(2)(b) exchange any objects between them (07 Board Review).

PO McIntyre stated that when the officers’ vehicle was approximately five feet from § 87(2)(b) and § 87(2)(b) another officer in his vehicle (identified by the investigation as PO Thomas) asked if § 87(2)(b) and § 87(2)(b) were smoking. PO McIntyre did not observe the males smoking at that time. PO McIntyre then saw one of the males raise his arm out away from his body as if he were throwing something, but PO McIntyre did not see any object, and stated that the male may have just been raising his arm. The officers then approached § 87(2)(b) and § 87(2)(b) and asked if they were smoking, which they denied. The officers searched the area, but did not see any contraband or indication that the men had been engaged in illegal activity. PO McIntyre did not smell any odors near the men, he did not observe them exchange any objects, and he denied that there was any other basis for the stops other than observing the one male potentially throw something. PO McIntyre asked one of the men for his ID, which the man provided (08 Board Review).

Det. Adeleke stated she was driving the officers’ vehicle to leave Wards Island when PO Thomas, who was seated on the passenger-side of the vehicle, made a statement about observing two males who were either smoking or had engaged in a hand-to-hand transaction. Det. Adeleke had not observed these two males prior to hearing PO Thomas make this remark. Det. Adeleke then pulled a U-turn, and drove to a bus stop at PO Thomas’ direction, where she observed § 87(2)(b) and § 87(2)(b) standing. Det. Adeleke stated the officers’ vehicle was approximately one hundred to three hundred feet from the two males when PO Thomas made the remark about observing them smoking something, and they were travelling approximately ten to fifteen miles per hour. Det. Adeleke denied observing the two males smoking or exchanging any objects, and did not recall smelling any odors upon approaching them, observing a broken crack pipe on the ground, or making any other observations about the males which led to the stop. She also denied ever learning that one of the males had been urinating in the field prior to this stop (09 Board Review).

Sgt. King and Det. Abreu stated that they responded to this incident after receiving a call over the radio that there were two males stopped at this location. Sgt. King stated that when they arrived, Det. Adeleke informed Sgt. King that the officers had observed a narcotics transaction between § 87(2)(b) and § 87(2)(b). Sgt. King did not ever learn any further details about what the officers observed that led them to stop § 87(2)(b) and § 87(2)(b). Sgt. King denied that the officers ever obtained § 87(2)(b) or § 87(2)(b) IDs (10 Board Review). Det. Abreu denied that he ever learned the reasons that § 87(2)(b) and § 87(2)(b) were stopped by the first group of officers. He denied that there were any odors in the vicinity of § 87(2)(b) and § 87(2)(b) and that there was a broken crack pipe, knife, or any other objects on the ground near

§ 87(2)(b) and § 87(2)(b) (11 Board Review). Det. Rivera did not recall this incident (12 Board Review).

§ 87(2)(g)

§ 87(2)(g)

In order to stop an individual, a police officer must possess reasonable suspicion that that person has committed or is about to commit a crime. An officer making an inconclusive observation of an individual smoking what may be marijuana is not sufficiently indicative of criminality to meet the standard of reasonable suspicion, absent any other suspicious behavior or circumstances. People v. Cantor, 36 N.Y.2d 106 (1975) (13 Board Review).

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation C: Abuse of Authority – Sgt. Darrien King supervised the search of § 87(2)(b)

Allegation E: Abuse of Authority – Sgt. Darrien King supervised the frisk of § 87(2)(b)

Allegation F: Abuse of Authority – Sgt. Darrien King supervised the search of § 87(2)(b)

§ 87(2)(b) stated that after the second police vehicle arrived at the stop, an officer asked § 87(2)(b) for his ID, and then reached inside of § 87(2)(b) pants pockets and removed an ID. Another officer then reached inside of § 87(2)(b)'s pants pocket and removed his wallet, and then removed § 87(2)(b)'s ID from his wallet. § 87(2)(b) could not describe any other search of § 87(2)(b) as he stated both men were being searched at the same time, and he was focusing on his own interaction with officers. In a phone statement given several days before his in-person statement, § 87(2)(b) also alleged that both he and § 87(2)(b) were searched by officers (14 Board Review).

§ 87(2)(b) alleged that two officers patted him down on his legs, waistband, torso and arms. One of those officers then reached inside of § 87(2)(b) pockets and felt the objects inside without removing them. A third officer (Det. Rivera) subsequently reached inside of § 87(2)(b) pockets and removed his ID. § 87(2)(b) stated that § 87(2)(b) was also frisked at the same time that § 87(2)(b) was being frisked and searched by the first two officers, but § 87(2)(b) did not know if § 87(2)(b) was searched further.

PO Thomas and Sgt. King both denied that they themselves frisked or searched § 87(2)(b) or § 87(2)(b) and that they ever observed or learned that any other officers had done

this. PO McIntyre denied frisking either man, and stated he did not know if any other officer frisked § 87(2)(b) or § 87(2)(b). PO McIntyre denied that he or any other officer searched § 87(2)(b) or § 87(2)(b). Det. Abreu stated that one or both of the males was frisked, but he could not say which officer conducted this frisk, and he denied doing it himself. Det. Abreu denied searching the pockets of either male, and denied seeing any other officer do this. Det. Adeleke did not recall if she or any other officer frisked or searched § 87(2)(b) or § 87(2)(b) and Det. Rivera did not recall this incident.

§ 87(2)(g)

Lastly, it is undisputed that the officers did not have any reason to suspect that § 87(2)(b) or § 87(2)(b) were armed, or that they posed a threat to the officers' safety during this stop.

In order to frisk an individual, a police officer must reasonably suspect that the person is armed. People v. De Bour, 40 N.Y.2d 210 (1976) (15 Board Review). In order to search an individual, an officer must have probable cause to arrest the person, or upon frisking the person, he must have felt an object that he reasonably suspected was a weapon. People v. Williams, 217 A.D.2d 1007 (4th Dept. 1995) (16 Board Review).

§ 87(2)(g)
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Allegation D: Abuse of Authority – Sgt. Darrien King supervised the strip-search of

§ 87(2)(b) [REDACTED]

§ 87(2)(b) [REDACTED] alleged in both of his statements to the CCRB that after an officer searched his pockets, that officer reached inside the waistband of his underwear and felt around his genitals. § 87(2)(b) [REDACTED] did not see an officer reach inside of § 87(2)(b) [REDACTED]'s waistband, but stated he could not describe the search the officers performed on § 87(2)(b) [REDACTED] as he was being searched by multiple officers himself while § 87(2)(b) [REDACTED] was being searched.

All of the officers denied this allegation, except for Det. Rivera, who did not recall the incident.

§ 87(2)(g) [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Allegation G: Abuse of Authority – Det. Jeannette Rivera refused to provide her name and shield number to § 87(2)(b) [REDACTED]

§ 87(2)(b) [REDACTED] alleged that after Det. Rivera removed his ID from his pocket, he stated, “You have my ID, now let me see your ID.” Det. Rivera did not say anything in response. § 87(2)(b) [REDACTED] corroborated that § 87(2)(b) [REDACTED] made this statement after officers removed his ID from his pocket, but alleged that § 87(2)(b) [REDACTED] asked the entire group of officers for their IDs, and not to one officer in particular. In § 87(2)(b) [REDACTED]'s phone statement, he stated that § 87(2)(b) [REDACTED] asked all of the officers for their shield numbers. It is undisputed that no officer ever provided his or her name or shield number to § 87(2)(b) [REDACTED] during this incident.

Det. Rivera did not recall this incident, and all of the other officers denied this allegation.

§ 87(2)(g) [Redacted]
[Redacted]
[Redacted]

[Redacted]
[Redacted]
[Redacted]
[Redacted]
[Redacted].

§ 87(2)(g), § 87(4-b) [Redacted]
[Redacted]

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§ 87(2)(g), § 87(4-b)

[Redacted text block]

Squad: 13

| | | | |
|---------------|-----------------|-------|-------|
| Investigator: | _____ | _____ | _____ |
| | Signature | Print | Date |
| Squad Leader: | _____ | _____ | _____ |
| | Title/Signature | Print | Date |
| Reviewer: | _____ | _____ | _____ |
| | Title/Signature | Print | Date |